REMARKS

Claims 1 to 31 are presented. Claim 17 is amended. No claims are added or canceled. An Abstract is provided on a separate page, as requested.

Claim 17 stands rejected under 35 U.S.C. § 112, second paragraph. Applicants respectfully submit that the rejection is rendered moot by the amendment to claim 17 made herein.

Claims 1, 2, 14 to 21 and 25 to 31 stand rejected under 35 U.S.C. § 103(a) over Brannigan, et al., U.S. Patent No. 4,964,893 ("the Brannigan patent"), Boschelli, et al., U.S. Patent No. 5,571,825 ("the Boschelli patent"), and Lafon, U.S. Patent No. 4,177,290 ("the Lafon patent"). Applicants respectfully traverse this rejection.

The Brannigan patent relates to the use of compounds of a broad general formula (1) for reducing injury to crop plants. The reference describes a method for converting a benzhydryl chloride into a methyl or ethyl diphenylmethylthioacetate (method "N" at col. 21, liens 25 to 30 and Example 61). It further describes a method for converting ethyldiphenylmethylthioacetate into ethyl-2-diphenylmethylsulfinylacetate (method "O" at col. 21, lines 30 to 35). Notably, this method "N" utilizes benzhydryl chloride and not benzhydrol, as recited in the present claims, as the starting point in the preparation of MDMTA. Moreover, the Brannigan patent does not explicitly disclose a synthesis for MDMSA, as method "O" is limited to EthylDMSA. Thus, the reference fails to teach both the starting point and the end product of the claimed method.

The Boschelli patent would also not lead a skilled person to the claimed invention. This patent describes preparation of a broad genus of compounds of Formula I (that can include, *inter alia*, MDMTA) for use in inhibiting G/H synthase-2. The reference does not describe the preparation of MDMSA, which is the subject of the present invention, however. The Boschelli patent describes four methods that may be used to prepare compounds of Formula I, one of which utilizes benzhydrol. However, the only example of preparation of MDMTA in the Boschelli patent is illustrated in Example 1, which describes the synthesis of MDMTA by reaction of methylthioglycolate with NaH and benzhydryl bromide in THF. Thus, to the extent that the skilled artisan wishing to prepare MDMSA would even consult the Boschelli patent, he/she would find that the reference *teaches away* from the use of

benzhydrol as a starting point. Accordingly, the combination of the Brannigan and Boschelli patents would not lead those skilled in the art to the claimed method of preparing MDMSA.

The addition of the Lafon patent fails to remedy the deficiencies of the Brannigan and Boschelli patents. The preparation described in the Lafon patent starts with benzhydrol, but instead of converting this into MDMTA, utilizes a synthesis that first converts benzhydrol into benzhydrylthioacetic acid, and then into benzhydrylsulfinyl acetic acid, before conversion into MDMSA. Thus, the Lafon patent neither teaches nor suggests the claimed invention, since it does not teach or suggest a method that utilizes MDMTA as a synthetic intermediate.

Indeed, Applicants respectfully submit that the combination of teachings set forth in the Office Action dated October 2, 2006 utilizes impermissible hindsight to combine the references. It is the teachings of the instant application, and not those of the prior art, that leads those skilled in the art to a method for preparing MDMSA that starts with benzhydrol, and converts that compound to the intermediate MDMTA before conversion to MDMSA.

Accordingly, Applicants respectfully request that the rejection of claims 1, 2, 14 to 21 and 25 to 31 under 35 U.S.C. § 103(a) be withdrawn, and a Notice of Allowance for all of pending claims 1 to 31 be issued.

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